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PATENT APPLICATION

ATTORNEY DOCKET NO. 10008303-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Seaman, et al.

Confirmation No.: 4970

Application No.: 10/002,356

Examiner: Huynh, Ba.

Filing Date: 10-30-01

Group Art Unit: 2179

Title: System and Method for Creating a Multimedia Presentation

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
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TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 9-19-05.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐ 1st Month
\$120

☐ 2nd Month
\$450

☐ 3rd Month
\$1020

☐ 4th Month
\$1590

☐ The extension fee has already been filed in this application.

☒ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$ 500. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,

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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Seaman, et al.

Serial No.: 10/002,356

Filed: October 30, 2001

Group Art Unit: 2179

Examiner: Huynh, Ba

Docket No. 10008303-1

For: **System And Method For Creating A Multimedia Presentation**

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed September 19, 2005, responding to the Final Office Action mailed August 18, 2005.

It is not believed that extensions of time or fees are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 08-2025.

11/25/2005 DTESSEM1 00000055 082025 10002356

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I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. Status of Claims

Claims 1-48 stand finally rejected. No claims have been allowed. The final rejections of claims 1-48 are appealed.

IV. Status of Amendments

The application was originally filed on October 30, 2001, with twenty-eight (28) claims. In a Response filed November 10, 2004, Applicant amended claims 18-27, and added new claims 29-34. In a Response filed June 9, 2005, Applicant amended claim 1 and added new claims 35-48.

All of the above-identified amendments have been entered and no other amendments have been made to any of claims 1-48. The claims in the attached Claims Appendix (see below) reflect the present state of those claims.

V. Summary of Claimed Subject Matter

The claimed inventions are summarized below with reference numerals and references to the written description (“specification”) and drawings. The subject matter described in the following appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Independent claim 1 describes a program (110, Fig. 1) stored on a non-printed, tangible computer-readable medium (104, Fig. 1), the program for composing a multimedia presentation from a plurality of media elements, the plurality of media elements including audio media elements and image elements, the image elements including at least one still image. Applicant’s specification, page 7, lines 3-13. The program comprises logic (110, Fig. 1) configured to determine at least one control setting, the control setting including the duration time for display of the at least one still image in an initial presentation. Applicant’s specification, page 11, lines 7-15; Figure 2, item 204.

The program of claim 1 further comprises logic (110, Fig. 1) configured to automatically compose the initial presentation, the initial presentation including the plurality of media elements, the initial presentation based in part on the duration time for the at least one still image and the initial presentation based in part on at least one time stamp associated with at least one of the media elements. Applicant’s specification, page

11, lines 8-12; page 13, line 18 to page 14, line 2; page 14, lines 9-12; Figure 2, item 208.

Independent claim 14 describes a system (110, Fig. 1) for composing a multimedia presentation from a plurality of media elements, the plurality of media elements including audio elements, the plurality of media elements including image elements, the image elements including at least one still image. The system comprises means (110, Fig. 1) for determining at least one control setting, the control setting including the duration time for the at least one still image. Applicant's specification, page 11, lines 7-15; Figure 2, item 204.

The system of claim 14 further comprises means (110, Fig. 1) for automatically composing an initial presentation, the initial presentation including the plurality of media elements, the initial presentation based in part on the duration time for the at least one still image and based in part on the time of recording of the plurality of media elements. Applicant's specification, page 11, lines 8-12; page 13, line 18 to page 14, line 2; page 14, lines 9-12; Figure 2, item 208.

Independent claim 18 describes a method for creating a multimedia presentation from a plurality of media elements, the plurality of media elements including audio elements and image elements, the image elements including at least one still image. The method comprises determining at least one control setting, the control setting including the duration time for the at least one still image. Applicant's specification, page 11, lines 7-15; Figure 2, item 204.

The method of claim 18 further comprises automatically composing an initial presentation, the initial presentation including the plurality of media elements, the initial

presentation based in part on the duration time for the at least one still image and in part on the time of recording of the plurality of media elements. Applicant's specification, page 11, lines 8-12; page 13, line 18 to page 14, line 2; page 14, lines 9-12; Figure 2, item 208.

Independent claim 35 describes a method for creating a presentation. The method comprises receiving control settings that control characteristics of an initial presentation. Applicant's specification, page 11, lines 7-12; Figure 2, item 204.

The method of claim 35 further comprises presenting media elements including one or more of separate still image elements, video image elements, and audio elements to a user for selection. Applicant's specification, page 11, lines 16-22; Figure 2, item 206.

The method of claim 35 further comprises enabling the user to bind user-selected media elements to each other. Applicant's specification, page 12, lines 16-23; Figure 2, item 206.

The method of claim 35 further comprises automatically composing an initial presentation with reference to the control settings and without further input from the user, the initial presentation comprising an image-track that is a graphical representation of the initial presentation and that arranges user-selected image elements in chronological order and a sound-track that is a graphical representation of the initial presentation and that arranges user-selected audio elements relative to the image elements. Applicant's specification, page 13, line 18 to page 16, line 4; Figure 2, item 208.

Independent claim 42 describes a system for creating a presentation. The system comprises means for receiving control settings that control characteristics of an initial presentation. Applicant's specification, page 11, lines 7-12; Figure 2, item 204.

The system of claim 42 further comprises means for presenting media elements including one or more of separate still image elements, video image elements, and audio elements to a user for selection. Applicant's specification, page 11, lines 16-22; Figure 2, item 206.

The system of claim 42 further comprises means for enabling the user to bind user-selected media elements to each other. The method of claim 35 further comprises enabling the user to bind user-selected media elements to each other. Applicant's specification, page 12, lines 16-23; Figure 2, item 206.

The system of claim 42 further comprises means for automatically composing an initial presentation with reference to the control settings and without further input from the user, the initial presentation comprising an image-track that is a graphical representation of the initial presentation and that arranges user-selected image elements in chronological order and a sound-track that is a graphical representation of the initial presentation and arranges user-selected audio elements relative to the image elements. Applicant's specification, page 13, line 18 to page 16, line 4; Figure 2, item 208.

VI. Grounds of Rejection to be Reviewed on Appeal

The following ground of rejection is to be reviewed on appeal:

Claims 1-48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin (U.S. Pub. No. 2003/0052897).

VII. Arguments

The Appellant respectfully submits that Applicant's claims are not obvious under 35 U.S.C. § 103, and respectfully requests that the Board of Patent Appeals overturn the final rejections of those claims at least for the reasons discussed below.

A. Claim Rejections - 35 U.S.C. § 112, Second Paragraph

Claims 35-48 have been rejected under 35 U.S.C. § 112, second paragraph, as purportedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In particular, the Examiner argues that the phrase “automatically composing an initial presentation with reference to the control setting and without further input from the user” contradicts “presenting media elements . . . to a user for selection” and “enabling the user to bind user-selected media elements to each other” in claims 35 and 42. Final Office Action, page 2, first paragraph. Applicant disagrees.

As was identified by the Examiner, Applicant's “automatically” composing recitations of claims 35 and 42 state “automatically composing an initial presentation . . . without *further* input from the user” (emphasis added). The adjective “further” in the

recitations makes clear that the initial presentation is automatically composed without *additional* input from the user. Therefore, the “automatically composing an initial presentation” portion of the process is performed without action on the part of the user. Therefore, the “automatically composing” recitations are consistent with the other limitations of claims 35 and 42.

Applicant further notes for the record that the “automatically comprising” recitations of claims 35 and 42 are consistent with and supported by Applicant’s original disclosure. For example, pages 13 and 14 of Applicant’s specification include the following disclosure:

At block 208, the presentation creation system 110 automatically composes an initial presentation by sorting the identified media elements from block 206 according to the selected control settings from block 204. . . . The term “automatically” in this context indicates the ability to create a presentation *without further input from the user after the user indicates completion of the media element identification process of block 206* or that they have completed the editing process of block 214.

[Applicant’s specification, page 13, line 18 to page 14, line 2 (emphasis added)]

In view of the above, it is respectfully submitted that claims 35-48 are definite and define the invention in the manner required by 35 U.S.C. § 112. Applicant therefore respectfully requests that the rejections to those claims be overturned.

B. Claim Rejections - 35 U.S.C. § 103(a)

Claims 1-48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin (U.S. Pub. No. 2003/0052897). Applicant respectfully traverses the rejection.

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office (“USPTO”) has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *See In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Manual of Patent Examining Procedure (MPEP) section 2143 discusses the requirements of a *prima facie* case for obviousness. That section provides as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must be found in the prior art, and not based on applicant’s disclosure.

In the present case, the prior art at least does not teach or suggest all of the claim limitations. Applicant discusses the Lin reference and Applicant’s claims in the following.

1. The Lin Reference

Lin discloses a system for providing multimedia photo albums. Lin, Application Title. More particularly, Lin describes a system with which still pictures may be stored as part of a photo album and video signals can be combined with the still images. Lin,

paragraph 0025, lines 1-6; paragraph 0026. Furthermore, audio signals can be can also be added to the still and video images. Lin, paragraph 0030, lines 1-4.

With the availability of that data in Lin's system, the user can *manually* create a photo album. As is described by Lin:

A number of conventional editing or display functions can be performed at the picture processor 180 upon command by the control CPU 122. For example, the still images or the associated video can be enlarged or reduced, pictures can be merged, split or deleted and multiple pictures can be processed for simultaneous display. In addition, the picture processor 180 can facilitate *creation of a slide show presentation by the user*. It is understood, however, that the invention is not limited in this regard, as many other display and editing functions can be performed by picture processor 180.

[Lin, paragraph 0034, lines 7-14 (emphasis added)]

In addition, Lin states:

Each VOBS 30 can include one or more video objects (VOB) 32. For purposes of the invention, each VOB 32 can be referred to as a picture group (PG). In one arrangement, each VOB 32 can have a menu for PG 33, which can list all the cells 34 that are contained within a particular VOB 32. For purposes of the invention, each cell 34 can be referred to as a picture set (PS). Similar to the VOB's 32, each cell 34 can have a menu for PS 35, which can list all the picture units (PU) 37 contained within a particular cell 34. *These PU's 37 can be listed in the menu for PS 35 according to the name created for each particular PU 37 during the writing process as discussed in FIG. 1.* As a result, a user is permitted direct access to any PU

37 that is stored on the disc 102 as part of a DVD photo album and is not limited to access data at the cell 34 layer.

[Lin, paragraph 0049]

From the above two excerpts, and the remainder of the Lin disclosure generally, it is clear that, although the Lin system can be used as a tool for *manual* creation of a multimedia photo album by a user, the Lin system does not and cannot “automatically” create a photo album or other “presentation”.

2. Applicant’s Claims

Applicant claims programs, systems, and methods for creating a multimedia presentation in which an initial presentation is *automatically* composed for the user. Applicant discusses these claims in the following.

(a) Claims 1-13 and 29-34

Independent claim 1 provides as follows (emphasis added):

1. A program stored on a non-printed, tangible computer-readable medium, the program for composing a multimedia presentation from a plurality of media elements, the plurality of media elements including audio media elements and image elements, the image elements including at least one still image, the program comprising logic configured to:

determine at least one control setting, the control setting including the duration time for display of the at least one still image in an initial presentation; and

automatically compose the initial presentation, the initial presentation including the plurality of media elements, the initial presentation based in part on the duration time for the at least one still image and the initial presentation *based in part on at least one time stamp associated with at least one of the media elements*.

(i) Lin Fails to Teach/Suggest All Limitations of Claim 1

As is noted above, Lin does not teach or suggest a system, or program, that *automatically* composes an initial presentation. Indeed, it is clear from Lin's disclosure that Lin teaches the opposite: Lin's system is used to facilitate *manual* creation of a photo album. Nothing in the Lin system *automatically* composes any presentation. Furthermore, Applicant notes that the Examiner does not cite any portion of the Lin reference that teaches such "automatic" composition, despite the fact that the Examiner provides explicit reference citations for all other of Applicant's limitations. Instead of providing such citations, the Examiner simply states that Lin teaches automatically composing an initial presentation. Final Office Action, page 3, lines 7-9. Since Lin says nothing about such automatic composition, it logically follows that Lin also does not suggest such an aspect. Claim 1, and its dependents, are allowable over Lin for at least this reason.

As a further point, Applicant notes that the Lin system does not enable a user to compose an initial presentation that is "based in part on at least one time stamp" associated with a media element. Although Lin makes a brief reference to "when the file was created" (Lin, paragraph 0056, lines 7-10), *nowhere* does Lin state that such a time is used as a basis for composing a presentation.

Regarding the Examiner's argument that "a photo album is a picture presentation of time-based events, from birth and as time goes" (Final Office Action, page 3, lines 9-12),

Applicant notes that photo albums need not be time-based, and often are not. Just because some photo albums are time-based does *not* mean that we can assume Lin's photo albums are time-based or that a person having ordinary skill in the art would presume that Lin's photo albums are time-based. To provide a metaphor, although some cars are blue, not all cars are blue. Therefore, contrary to that argued by the Examiner, Lin provides no suggestion of or motivation for a "time-based presentation of a photo album." Accordingly, Lin also fails to teach or suggest composing an initial presentation "based in part on at least one time stamp associated with the at least one of the media elements" as is provided in claim 1.

(ii) The Wolff Reference and Improper Reliance Thereon

In the rejection under Lin alone, the Examiner identifies the Wolff reference (U.S. Pat. No. 6,833,848) for purportedly teaching ordering media elements based in part on at least on one time stamp. See, e.g., Final Office Action, page 3, lines 17-23. As an initial matter, Applicant notes that, irrespective as to what Wolff teaches in relation to arranging photographs by date stamp, Wolff likewise does *not* teach automatically composing a presentation in the manner described in claim 1. Moreover, it is clear that Wolff does not teach or suggest arranging still images with video in chronological order.

As a second matter, Applicant objects to the Examiner's usage of the Wolff reference in the rejection without actually combining that reference with the Lin reference under 35 U.S.C. § 103. Given that the Examiner merely is pointing to Wolff as an example reference instead of combining the Wolff reference under 35 U.S.C. § 103, the Examiner is circumventing the requirements of 35 U.S.C. § 103 described in the foregoing. As is

discussed above, that section requires “some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching.” See MPEP 2143. Little if any suggestion or motivation has been identified by the Examiner, and yet the Examiner relies on the teachings of the Wolff reference as he would in a rejection under Lin in view of Wolff. Indeed, as is apparent from the following, the Examiner relies on the teachings of Wolff as much or even more than those of Lin, but does not actually officially apply the reference under 35 U.S.C. § 103.

(iii) Dependent Claims

Turning to claims that depend from claim 1, Applicant notes that Lin does not teach or suggest an “image line” or a “sound line” as are recited in claims 3 and 4, respectively. Indeed, this is even *admitted* by the Examiner. Moreover, Wolff does not teach those limitations.

Regarding claim 31, Lin does not teach logic configured to “automatically place selected, unbound audio elements in chronological order”. Regarding this claim, the Examiner states that “sound can be added to the image elements” and “as image elements are chronically ordered, associated audio elements are also placed in the same order.” What the Examiner fails to appreciate, however, is that “unbound” audio elements are, by definition, *not* associated with an image element.

(iv) Reply to the Examiner's "Response to Arguments"

In the final Office Action, the Examiner responds to Applicant's points as to the fact that Lin does not teach automatically composing a presentation by identifying paragraph 0039 of the Lin reference. Final Office Action, page 8, lines 10-14. That paragraph provides as follows:

A computer program in the present context can mean any expression, in any language, code or notation, of a set of instructions intended to cause a system having an information processing capability to perform a particular function either directly or after either or both of the following: (a) conversion to another language, code or notation; and (b) reproduction in a different material form. The invention disclosed herein can be a method embedded in a computer program which can be implemented by a programmer using commercially available development tools for operating systems compatible with the control CPU 122 described above.

[Lin, paragraph 0039]

The above disclosure of a "computer program" clearly does not equate to an actual teaching or suggestion of logic configured to "automatically compose the initial presentation". Specifically, although Lin identifies a mere computer program, that program is used to *manually* create a presentation. Again, *nowhere* is it stated that Lin's program automatically composes a presentation for the user.

Furthermore, paragraphs 0044 and 0051-0053 of the Lin reference, which the Examiner identified (Final Office Action, page 8, lines 10-14), are similarly devoid of a

teaching of automatically composing a presentation. Those paragraphs provide as follows:

[0044] FIG. 3A illustrates a conventional DVD data structure. Each DVD contains a video manager 26 and a video title set (VTS) 28. The VTS includes control data video title set information (VTSI) 27, an optional video object set (VOBS) for menu 29, one or more VOBS for title 30 which contain the actual title content, and a VTSI backup 31. Each VOBS 30 is comprised of a plurality of video objects (VOB) 32. Each VOB 32 includes a plurality of cells 34. Each VOBS 30 also includes a collection of pointers to one or more cells 34. In this way, the VOBS 30 data links the cells 34 together and indicates in what order the programs or the cells 34 are to be played. The cells 34 within a particular VOBS 30 are flagged for play in any desired order. For example, they can be played sequentially or randomly. The data layer containing the cells 34 is the lowest user-accessible data layer in the conventional DVD data structure.

[0051] The navigation pack is similar to a conventional navigation pack; however, the navigation pack contained in a PU 37 can include additional information to facilitate the display of photo album pictures and any associated multimedia data. Specifically, the navigation pack can contain the following eight kinds of information: (1) a PU display time parameter; (2) an audio setting; (3) an audio interrupt setting; (4) a slide show display time parameter; (5) a video setting; (6) a video display parameter; (7) one or more addresses of backward located PU's; and (8) one or more addresses of forward located PU's. It is understood, however that the navigation pack of a PU 37 is not limited in this regard, as other parameters or settings may be used for displaying the DVD photo album.

[0052] The PU display time parameter can set the time allotted for displaying each picture in the photo album. The allotted time can be set from approximately 1/16 of a second to approximately 3,600 seconds. It should be noted, however, that the invention is not so limited, as other time periods can be used. The audio setting can inform the control CPU 122 of FIG. 1 whether a portion of audio is combined with a particular PU 37. In addition, the audio setting can determine whether the audio contains speech, music or a combination thereof. The audio interrupt setting can inform the CPU 122 to initiate a process of overriding any existing audio currently combined with a PU 37 with a new portion of audio.

[0053] The slide show display time parameter can set the time allotted for the display of each PU 37 that can comprise a slide show presentation, if a user chooses to create such a presentation. Preferably, this time period is selected by the user; however, if the user does not select a time, a default setting of approximately five seconds can be used. The video setting can inform the CPU 122 that a particular PU 37 contains a video display. Further, the video display parameter can determine whether the associated video will be displayed under a picture-in-picture format or a full screen display. For purposes of locating other PU's 37, the navigation pack can also contain the addresses of one or more previously created, or backward located, PU's 37. In addition, the navigation pack can also contain the addresses of one or more subsequently created, or forward located, PU's 37.

[Lin, paragraphs 0044 and 0051-0053]

Clearly, the above four paragraphs do not disclose a program or other logic that automatically composes a presentation.

The Examiner also brought in the teachings of Wolff in addressing Applicant's "automatically compose" limitation in the final Office Action. Final Office Action, page 8,

lines 14-22. Again, Applicant objects to the reliance upon Wolff. The Examiner has now relied upon Wolff to address nearly each limitation of claim 1 and yet has not even officially cited the reference against Applicant's claims under 35 U.S.C. § 103.

Turning to the merits of the Wolff reference, neither column 3, lines 1-58 nor column 5, lines 8-14 teach logic configured to "automatically compose the initial presentation". Applicant has not reproduced those portions of the Wolff reference herein for purposes of brevity. A cursory review of those portions of the Wolff reference reveals, however, that Wolff teaches no such automatic composing.

(b) Claims 14-17

Independent claim 14 provides as follows (emphasis added):

14. A system for composing a multimedia presentation from a plurality of media elements, the plurality of media elements including audio elements, the plurality of media elements including image elements, the image elements including at least one still image, the system comprising:

means for determining at least one control setting, the control setting including the duration time for the at least one still image;

means for automatically composing an initial presentation, the initial presentation including the plurality of media elements, the initial presentation based in part on the duration time for the at least one still image and based in part on the time of recording of the plurality of media elements.

Regarding claim 14, neither Lin nor Wolff teach or suggest "means for automatically composing an initial presentation, the initial presentation including the

plurality of media elements, the initial presentation based in part on the duration time for the at least one still image and based in part on the time of recording of the plurality of media elements”, at least for reasons described above. Applicant accordingly submits that claim 14 and its dependents are allowable over Lin and/or Wolff.

Turning to claims that depend from claim 14, Applicant notes that neither Lin nor Wolff teach or suggest an “image line” or a “sound line” as are recited in claims 16 and 17, respectively. Indeed, this is even admitted by the Examiner as to the Lin reference.

(c) Claims 18-28

Independent claim 18 provides as follows (emphasis added):

18. A method for creating a multimedia presentation from a plurality of media elements, the plurality of media elements including audio elements and image elements, the image elements including at least one still image, the method comprising:

determining at least one control setting, the control setting including the duration time for the at least one still image; and

automatically composing an initial presentation, the initial presentation including the plurality of media elements, the initial presentation based in part on the duration time for the at least one still image and in part on the time of recording of the plurality of media elements.

Regarding claim 18, neither Lin nor Wolff teach or suggest “automatically composing an initial presentation, the initial presentation including the plurality of media elements, the initial presentation based in part on the duration time for the at least one still image and based in part on the time of recording of the plurality of media elements”, at

least for reasons described above. Applicant accordingly submits that claim 18 and its dependents are allowable over Lin and/or Wolff.

Turning to claims that depend from claim 18, Applicant notes that neither Lin nor Wolff teach or suggest an “image line” or a “sound line” as recited in claims 20 and 21, respectively. Indeed, this is even admitted by the Examiner as to the Lin reference.

(d) Claims 35-41

Independent claim 35 provides as follows (emphasis added):

35. A method for creating a presentation, the method comprising:

receiving control settings that control characteristics of an initial presentation;

presenting media elements including one or more of separate still image elements, video image elements, and audio elements to a user for selection;

enabling the user to bind user-selected media elements to each other; and

automatically composing an initial presentation with reference to the control settings and *without further input from the user*, the initial presentation comprising an *image-track that is a graphical representation of the initial presentation and that arranges user-selected image elements in chronological order* and a *sound-track that is a graphical representation of the initial presentation and that arranges user-selected audio elements relative to the image elements*.

As a first matter regarding claim 35, neither Lin nor Wolff teach or suggest “automatically composing an initial presentation . . . without further input from the user”, at

least for reasons described above. Claim 35 and its dependents are allowable for at least this reason.

As a further matter, neither Lin nor Wolff teach or suggest “enabling the user to bind user-selected media elements to each other”. Applicant notes that, contrary to that alleged in the final Office Action on page 6, line 11, *nowhere* in paragraphs 002 and 0044-0051 Lin is “enabling the user to bind user-selected media elements to each other” taught. Again, Applicant has not reproduced those sections here for purposes of brevity. Applicant further notes that if the Examiner wishes to rely on a particular teaching of a reference, the Examiner should identify *with particularity* the portion of the disclosure that is believed to teach what the Examiner alleges. Unfortunately, the Examiner’s citations to the references for limitations that the references do not teach are imprecise to say the least, thereby making it difficult to respond to the rejections.

Furthermore, neither Lin nor Wolff teach or suggest automatically composing an initial presentation that comprises “an image-track that is a graphical representation of the initial presentation and that arranges user-selected image elements in chronological order” *and* a “sound-track that is a graphical representation of the initial presentation and that arranges user-selected audio elements relative to the image elements”. Again, Applicant notes that, because not all photo albums are time-based, Lin does not suggest a time-based arrangement of image elements. Regarding the Wolff reference, which again is not even cited as part of the 103 rejection, Wolff’s teaching of displaying thumbnail images in a slideshow does not equate to a teaching of “an image-track that is a graphical representation of the initial presentation and that arranges user-selected image elements in chronological order”. Moreover, Wolff clearly does not teach a separate “sound-track

that is a graphical representation of the initial presentation and that arranges user-selected audio elements relative to the image elements”. There is simply no support for an argument that Wolff teaches such a sound track. Wolff does not even come close to suggesting a “graphical representation” of “audio elements” that are arranged relative to image elements of an image track.

Regarding dependent claim 38, Lin does not teach or suggest “automatically ordering both still and video image elements together in chronological order”. Furthermore, even if it were assumed, for purposes of argument, that the Wolff reference were properly combinable with the Lin reference and that Wolff teaches chronologically arranging *images*, Wolff still does not teach automatically ordering “both still and video image elements together” in chronological order.

Regarding dependent claim 39, neither Lin nor Wolff teach or suggest “automatically ordering the audio elements first according to the order of still image elements to which audio elements are bound, and second according to chronological order”. Simply stated, there is just no support in either reference for such a process.

(e) Claims 42-48

Independent claim 42 provides as follows (emphasis added):

42. A system for creating a presentation, the system comprising:

means for receiving control settings that control characteristics of an initial presentation;

means for presenting media elements including one or more of separate still image elements, video image elements, and audio elements to a user for selection;

means for enabling the user to bind user-selected media elements to each other; and

means for automatically composing an initial presentation with reference to the control settings and *without further input from the user*, the initial presentation comprising an *image-track that is a graphical representation of the initial presentation and that arranges user-selected image elements in chronological order* and a *sound-track that is a graphical representation of the initial presentation and arranges user-selected audio elements relative to the image elements.*

Regarding claim 42, neither Lin nor Wolff teach or suggest “means for enabling the user to bind user-selected media elements to each other” or “means for automatically composing an initial presentation with reference to the control settings and without further input from the user, the initial presentation comprising an image-track that is a graphical representation of the initial presentation and that arranges user-selected image elements in chronological order and a sound-track that is a graphical representation of the initial presentation and arranges user-selected audio elements relative to the image elements”, at least for reasons described above in relation to claim 35.

Regarding dependent claim 45, neither Lin nor Wolff teach or suggest “means for automatically ordering both still and video image elements together in chronological order”, at least for reasons described above.

Regarding dependent claim 46, neither Lin nor Wolff teach or suggest “means for automatically ordering the audio elements first according to the order of still image elements

to which audio elements are bound, and second according to chronological order”, at least for reasons described above.

C. Conclusion

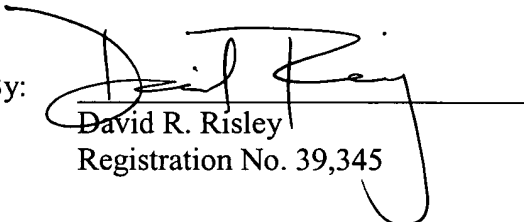
In summary, it is Applicant’s position that a *prima facie* for obviousness has not been made against Applicant’s claims. Therefore, it is respectfully submitted that each of those claims is patentable over the Lin reference and that the rejection of these claims should be withdrawn.

VII. Conclusion

In summary, it is Applicant's position that Applicant's claims are patentable over the applied prior art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

By:

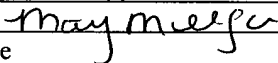

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11-21-05



Claims Appendix under 37 C.F.R. § 41.37(c)(1)(viii)

The following are the claims that are involved in this Appeal.

1. A program stored on a non-printed, tangible computer-readable medium, the program for composing a multimedia presentation from a plurality of media elements, the plurality of media elements including audio media elements and image elements, the image elements including at least one still image, the program comprising logic configured to:

determine at least one control setting, the control setting including the duration time for display of the at least one still image in an initial presentation; and

automatically compose the initial presentation, the initial presentation including the plurality of media elements, the initial presentation based in part on the duration time for the at least one still image and the initial presentation based in part on at least one time stamp associated with at least one of the media elements.

2. The program of claim 1, wherein the logic is further configured to display the initial presentation.

3. The program of claim 1, wherein the logic is further configured to display an image line, the image line showing the order of appearance of some of the image elements in the initial presentation.

4. The program of claim 1, wherein the logic is further configured to display a sound line, the sound line showing the order of expression of some of the audio elements in the initial presentation.

5. The program of claim 3, further comprising logic configured for editing the image line.

6. The program of claim 4, further comprising logic for editing the sound line.

7. The program of claim 1, further comprising logic for editing the initial presentation, the logic for editing configured to interface with a user, the logic for editing comprising logic for reordering the media elements.

8. The program of claim 7, further comprising logic for automatically composing an edited presentation based in part on the duration time for the at least one still image.

9. The program of claim 7, further comprising logic for automatically composing an edited presentation based in part on the interfacing with the user.

10. The program of claim 7, wherein the logic for editing further comprises logic for adding graphic elements.

11. The program of claim 7, wherein the logic for editing further comprises logic for adding text elements.

12. The program of claim 7, wherein the logic for editing further comprises logic for resetting control settings.

13. The program of claim 1, wherein the program is configured for operation on a personal computer.

14. A system for composing a multimedia presentation from a plurality of media elements, the plurality of media elements including audio elements, the plurality of media elements including image elements, the image elements including at least one still image, the system comprising:

means for determining at least one control setting, the control setting including the duration time for the at least one still image;

means for automatically composing an initial presentation, the initial presentation including the plurality of media elements, the initial presentation based in part on the duration time for the at least one still image and based in part on the time of recording of the plurality of media elements.

15. The system of claim 14, further comprising a means for displaying the initial presentation.

16. The system of claim 14, further comprising a means for displaying an image line, the image line showing the order of appearance of at least some of the image elements in the initial presentation.

17. The system of claim 14, further comprising a means for displaying a sound line, the sound line showing the order of expression of at least some of the sound elements in the initial presentation.

18. A method for creating a multimedia presentation from a plurality of media elements, the plurality of media elements including audio elements and image elements, the image elements including at least one still image, the method comprising:

determining at least one control setting, the control setting including the duration time for the at least one still image; and

automatically composing an initial presentation, the initial presentation including the plurality of media elements, the initial presentation based in part on the duration time for the at least one still image and in part on the time of recording of the plurality of media elements.

19. The method of claim 18, further comprising displaying the initial presentation.

20. The method of claim 18, further comprising displaying an image line, the image line showing the order of appearance of at least some of the image elements in the initial presentation.

21. The method of claim 18, further comprising displaying a sound line, the sound line showing the order of expression of at least some of the sound elements in the initial presentation.

22. The system of claim 21, further comprising editing the initial presentation, editing including reordering the media elements.

23. The method of claim 22, further comprising composing an edited presentation, the edited presentation based in part on the duration time for the at least one still image.

24. The method of claim 22, further comprising composing an edited presentation, the edited presentation based in part on the reordered media elements.

25. The method of claim 22, wherein editing further comprises adding graphic elements.

26. The method of claim 22, wherein editing further comprises adding text elements.

27. The method of claim 22, wherein editing further comprises resetting control settings.

28. The method of claim 18, wherein the method is performed with a personal computer.

29. The program of claim 1, wherein the logic configured to automatically compose an initial presentation is configured to automatically place selected digital image elements in chronological order.

30. The program of claim 29, wherein the logic configured to automatically compose an initial presentation is further configured to bind audio elements to the selected image elements.

31. The program of claim 30, wherein the logic configured to automatically compose an initial presentation is further configured to automatically place selected, unbound audio elements in chronological order.

32. The program of claim 31, wherein the logic configured to automatically compose an initial presentation is further configured to combine the image elements and the audio elements as a presentation that can be presented to a user as an initial presentation that the user can review and edit.

33. The program of claim 3, wherein the logic is further configured to display the image line in coordination with display of the presentation.

34. The program of claim 4, wherein the logic is further configured to display the audio line in coordination with display of the presentation.

35. A method for creating a presentation, the method comprising:
receiving control settings that control characteristics of an initial presentation;
presenting media elements including one or more of separate still image elements, video image elements, and audio elements to a user for selection;
enabling the user to bind user-selected media elements to each other; and
automatically composing an initial presentation with reference to the control settings and without further input from the user, the initial presentation comprising an image-track that is a graphical representation of the initial presentation and that arranges user-selected image elements in chronological order and a sound-track that is a graphical representation of the initial presentation and that arranges user-selected audio elements relative to the image elements.

36. The method of claim 35, wherein the control settings are user-selected control settings.

37. The method of claim 35, wherein the control settings include a duration that still images are to be displayed.

38. The method of claim 35, wherein automatically composing an initial presentation comprises automatically ordering both still and video image elements together in chronological order.

39. The method of claim 38, wherein automatically composing an initial presentation further comprises automatically ordering the audio elements first according to the order of still image elements to which audio elements are bound, and second according to chronological order.

40. The method of claim 39, further comprising displaying to a user the initial presentation along with the image-track and the sound-track.

41. The method of claim 40, further comprising enabling a user to edit the initial presentation to create a final presentation.

42. A system for creating a presentation, the system comprising:
means for receiving control settings that control characteristics of an initial presentation;
means for presenting media elements including one or more of separate still image elements, video image elements, and audio elements to a user for selection;

means for enabling the user to bind user-selected media elements to each other;
and

means for automatically composing an initial presentation with reference to the control settings and without further input from the user, the initial presentation comprising an image-track that is a graphical representation of the initial presentation and that arranges user-selected image elements in chronological order and a sound-track that is a graphical representation of the initial presentation and arranges user-selected audio elements relative to the image elements.

43. The system of claim 42, wherein the control settings are user-selected control settings.

44. The system of claim 42, wherein the control settings include a duration that still images are to be displayed.

45. The system of claim 42, wherein the means for automatically composing an initial presentation comprise means for automatically ordering both still and video image elements together in chronological order.

46. The system of claim 45, wherein the means for automatically composing an initial presentation further comprise means for automatically ordering the audio elements first according to the order of still image elements to which audio elements are bound, and second according to chronological order.

47. The system of claim 46, further comprising means for displaying to a user the initial presentation along with the image-track and the sound-track.

48. The system of claim 47, further comprising means for enabling a user to edit the initial presentation to create a final presentation.

Evidence Appendix under 37 C.F.R. § 41.37(c)(1)(ix)

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

Related Proceedings Appendix under 37 C.F.R. § 41.37(c)(1)(x)

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.